

ASSEMBLY BILL

No. 382

Introduced by Assembly Member Nestande

February 14, 2011

An act to add Section 40722 to, and to add Part 7 (commencing with Section 44400) to Division 26 of, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 382, as introduced, Nestande. Air inspectors: administrative and civil penalties.

(1) Existing law establishes the State Air Resources Board, which is responsible for the control of greenhouse gas emissions and emissions from motor vehicles, and is designated the air pollution control agency for all purposes set forth in federal law. Existing law vests air pollution control districts and air quality management districts with the primary responsibility for control of air pollution from all sources other than vehicular sources.

This bill would require an inspector, as defined, acting on behalf of the state board or a district to meet certain requirements.

(2) Existing law requires a written communication from the State Air Resources Board alleging that an administrative or civil penalty will be, or could be, imposed either by the state board or another party, including the Attorney General, for a violation of air pollution law, to contain specified information, and requires this information and final mutual settlement agreements reached between the state board and a person alleged to have violated air pollution laws to be made available to the public.

This bill would apply these requirements to an air pollution control or air quality management district. Because these requirements and the requirements discussed in (1) above would impose new duties on local districts, the bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 40722 is added to the Health and Safety
- 2 Code, to read:
- 3 40722. (a) A written communication from a district alleging
- 4 that an administrative or civil penalty will be, or could be, imposed
- 5 either by the district or another party, including the Attorney
- 6 General, for a violation of air pollution law, shall contain a clear
- 7 explanation of all of the following:
- 8 (1) The manner in which the administrative or civil penalty
- 9 amount was determined, including the aggravating and mitigating
- 10 factors the district considered in arriving at the amount, and, where
- 11 applicable, the per unit or per vehicle basis for the penalty.
- 12 (2) The provision of law or regulations under which the alleged
- 13 violator is being assessed the administrative or civil penalty,
- 14 including the reason that provision is most appropriate for that
- 15 violation.
- 16 (3) Whether the administrative or civil penalty is being assessed
- 17 under a provision of law that prohibits the emission of pollution
- 18 at a specified level, and if so, a quantification of the specific
- 19 amount of pollution emitted in excess of that level, where
- 20 practicable. This quantification may be based on estimates or
- 21 emission factors.
- 22 (b) The information described in subdivision (a) and all final
- 23 mutual settlement agreements reached between a district and a

1 person alleged to have violated air pollution laws shall be made
2 available to the public.

3 SEC. 2. Part 7 (commencing with Section 44400) is added to
4 Division 26 of the Health and Safety Code, to read:

5
6 PART 7. INSPECTIONS
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8 44400. (a) An inspector acting on behalf of the state board or
9 a district shall do all of the following:

10 (1) Act in a professional manner with the honesty and integrity
11 necessary to inspire confidence and respect for the public trust
12 held by an inspector.

13 (2) Promote environmental and public health by performing all
14 duties impartially and objectively without undue influence, based
15 upon relevant statutes, regulations, standards, policies, and
16 procedures.

17 (3) Provide to a representative of the business or individual
18 whose activities or operations are being inspected or investigated
19 all of the following:

20 (A) Identification.

21 (B) The statutory and regulatory authority for the inspection or
22 investigation.

23 (C) General information regarding the inspection and
24 enforcement process.

25 (D) Contact information to allow the business or individual to
26 obtain more information or provide feedback.

27 (4) Treat regulated businesses and individuals and the public
28 respectfully by being courteous at all times and in all situations.

29 (5) Exercise compassion, benevolence, and fairness during the
30 inspection or investigation and subsequent enforcement
31 proceedings.

32 (6) Respond to regulated businesses and individuals and the
33 public in a manner that is complete, clear, and easy to understand.

34 (7) Assist regulated businesses and individuals and the public
35 in their dealings with the district or state board.

36 (b) As used in this section, "inspector" means an individual
37 inspecting or investigating an activity or operation of a business
38 or individual to ensure compliance with air pollution laws.

39 SEC. 3. If the Commission on State Mandates determines that
40 this act contains costs mandated by the state, reimbursement to

- 1 local agencies and school districts for those costs shall be made
- 2 pursuant to Part 7 (commencing with Section 17500) of Division
- 3 4 of Title 2 of the Government Code.

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